

Recommendations for Updating the House Democratic Caucus Rules 117th Congress

The House Democratic Caucus rules provide the framework for how Democrats in the House of Representatives organize their Caucus. The rules address how they choose their leaders and committee members, identify their priorities, and express their values. Until very recently, the Caucus rules were secret and even some Members of Congress had trouble obtaining access to them. Today, the rules for the 116th Democratic Caucus can be found on the Caucus's website, providing Members and the general public with increased transparency about aspects of the Caucus's operations.

With this new transparency, there are additional opportunities for the rules to further communicate Democratic values and shape the Caucus's operations. Caucus rules should reflect the values of the Members and the voters who elected them. To this end, Demand Progress has compiled a set of "low-hanging fruit" recommendations, broken into six sections, focused on making the Caucus more equitable, transparent, and democratic.

Principles

- Americans everywhere should be able to know about and participate in the lawmaking process, and its outcomes should be an expression of their values.
- The Democratic Caucus should ensure that all Democratic Members of the House of Representatives have an opportunity to participate in the lawmaking process and make their voices heard and their votes count.
- Transparency is essential to running an open, accountable, representative government.
- Members of the Democratic Caucus should be held to the highest ethical standards.
- Congressional employees should reflect America's diversity, be paid a living wage, and enjoy good working conditions.

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Public Transparency and Digital Democracy

House Democrats must commit to the principles of transparency and accountability.

House Democrats should publish online:

- Current and historical Caucus rules. (Until recently, the Democratic Caucus did not publish its rules.)
- The rules governing the Steering and Policy committee. (These rules relate to how Members are chosen to serve on Committees.)¹
- A list of current Steering and Policy committee members.²
- All Steering and Policy Committee waivers, grandfathering, and special permissions.³ (These relate to when exceptions are made to Caucus rules concerning Member service on Committees.)
- A list of the Members of the Committee on Caucus procedures.⁴ (This committee reviews and makes recommendations on updating Caucus rules.)
- A list of Members of the Democratic Congressional Campaign Committee.⁵
- The names and members of additional committees and task forces.

House Democrats should also:

- Adopt a presumption of openness regarding Caucus proceedings.
- Support the adoption of a presumption of openness by the House of Representatives, whereby information and data about the lawmaking process is directed to be released to the public except when there is a strong reason to

¹ Democratic Caucus Rule 10 covers the Steering and Policy Committee. Clause (A)(2) identifies characteristics of those who may serve on the Committee. Clause (B)(1) says the Committee “shall adopt its own rules, which shall be in writing.”

² The Congressional Research Service has published members of the Steering and Policy Committee, but ceased doing so for the 116th Congress. We published a compilation of those members in “Who Steers the Ship,” First Branch Forecast (July 20, 2020), <https://firstbranchforecast.com/2020/07/20/who-steers-the-ship-an-examination-of-house-steering-and-policy-committee-membership-in-the-116th-congress/>

³ Democratic Caucus Rule 10(B)(3) should be updated accordingly.

⁴ Democratic Caucus Rule 13 should be updated accordingly.

⁵ Democratic Caucus Rule 12(a)(2) should be updated accordingly.

withhold it.

- Make publicly available proposed Rules for the House of Representatives no fewer than 48 hour prior to the expected time of consideration.
- Encourage committees of the House, Member offices, and leadership to publish on their website an updated list of their staff and the issue areas they cover.

Employee Diversity, Expertise, and Support

House Democrats should provide an open and welcoming work environment that provides for the needs of all employees. In addition, House Democrats should strive to recruit a diverse workplace that provides equal opportunity for all to advance and succeed.

House Democrats should adopt the following rules to apply to all staff:

- Every personal, committee, and leadership office should provide 12 weeks of paid family and medical leave to every permanent staffer and encourage staff to use that leave.
- House Democrats should work in support of unionization of Congressional staff.
- Member, committee, and leadership offices should be encouraged, to the extent practicable, to pay interns at least the prevailing minimum wage in the locality at which they work. Internships serve as a pipeline into Congressional offices, and maximal efforts should be made to ensure they draw from diverse pools. There should be no unpaid internships.
- The House Democratic Caucus should work to ensure the House of Representatives is sufficiently funded to pay staff a living wage that is competitive with service in the Executive branch. In pursuit of that goal, the Caucus should promulgate model pay levels for all congressional staff positions.
- All fellows in Congressional offices whose work is subsidized or paid by other entities should be required to disclose the source of funds to the Democratic Caucus, who in turn should publish this information online in a central database. No congressional office should be allowed to employ a fellow funded by an organization that engages in advocacy.

Ethics

The Democratic Caucus should promote ethical practices and standards for all of its Members.

House Democrats should adopt the following ethics rules to apply to all Members:

- Caucus Members should be discouraged from being personally involved in fundraising activities between 9 a.m. and 6 p.m. on days when the House holds votes.
- A Member of the Democratic Caucus who is indicted should be required to temporarily step down from committees on which they serve, pending the outcome.⁶
- The Caucus should support a change to House rules that would deny Members of Congress (and former Members of Congress) access to the House floor and gym if they resign from office while there is a pending investigation by the House Ethics Committee, unless the House Ethics Committee votes to restore that privilege.

⁶ See Democratic Caucus Rules 4 and 5 for a model of how temporarily stepping aside could work; see also Republican Conference Rule 25, temporary step aside of a member who is indicted

<https://s3.amazonaws.com/demandprogress/documents/House-GOP-115.pdf#page=16>.

Appointments

The Democratic Caucus should provide ample support for Members to receive information from their colleagues and staff.

House Democrats should adopt the following rules regarding appointments:

- Each Chair or ranking member of a subcommittee should be afforded one staffer to specifically support their work.⁷ (Rule 26(b) has the full Committee chair select all staff members; those staff are obligated to serve all Members of the Committee.)
- The Chair and Members of the House Permanent Select Committee on Intelligence should be chosen in the same fashion as Members of the standing committees, in accordance with the process outlined in Rule 19, and the chair of the standing committees, in accordance with the process outlined in Rule 21. Those Caucus rules should be amended accordingly, as should Rule 33, regarding appointments to select committees.

⁷ Democratic Caucus Rule 26(A) should be amended appropriately, and (B) and (C) brought into conformity.

Agenda Setting

The Democratic Caucus should provide its Members with ample opportunities to participate in the legislative and rulemaking process.

House Democrats should adopt the following rules:

- Make available to all Members transcripts of Caucus proceedings pertaining to elections and amendments to these rules upon the member's election, at the start of each new Congress, and upon demand thereafter.⁸
- The Caucus Chair should be obligated to include items on the agenda that are requested by Members of the Caucus except when prudence counsels otherwise, and should be required, in advance of proceedings, to provide to all Members a copy of the requested agenda items and an explanation for the rejection.⁹
- As a matter of policy, the House Democratic Caucus should support restoring the functions of Legislative Service Organizations, which were the predecessor to Congressional Member Organizations. LSOs were an informational resource and collaboration tool for Members of Congress who share an affinity on a particular matter, and had quasi-official status that allowed them to act as separate entities.
- Closed rules, addressed in Rule 35, should be reformed to allow additional opportunities for germane amendments. Accordingly, structured rules that effectively act as closed rules (e.g., only one or two amendments are permitted) should be governed by this provision and limited as well. In addition, the threshold number of Members required to give written notice to offer a germane amendment should be reduced.
- Rule 38(A)(2), guidelines on suspending House rules, should update language from "at least three calendar days" to "at least 72 hours" to be in conformity with recent House Rules changes. Similarly, Rule 38(C)(2) should be reviewed for conformity with House Rules.

⁸ Democratic Caucus Rule 9(E) should be updated accordingly. This parallels Rule 9(G), where copies of record votes are distributed to each Member of the Caucus.

⁹ Democratic Caucus Rule 8(A) should be amended accordingly.

Additional Resources

116th Congress - Ideas for Updating the House Democratic Caucus Rules¹⁰

116th Congress - House Democratic Caucus Rules¹¹

¹⁰ Ideas for updating the House Democratic Caucus Rules, 116th Congress, Demand Progress, April 26, 2019
https://s3.amazonaws.com/demandprogress/documents/Ideas_for Updating the House Democratic Caucus Rules 116th Congress.pdf

¹¹ Rules of the Democratic Caucus, 116th Congress, House Democratic Caucus, Adopted July 6, 2020
<https://www.dems.gov/caucus-rules-of-116th-congress>